

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

January 12, 2012

- I. **CALL TO ORDER** - The meeting was called to order at 1:42 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Cravens, Chair; Eunice Beatty; Carla Blanton; Derek Paulsen; William Wilson and Will Berkley. Patrick Brewer, Marie Copeland, Mike Owens, Frank Penn and Lynn Roche-Phillips were absent.

Planning Staff Present – Chris King, Director; Bill Sallee; Tom Martin; Cheryl Gallt; Chris Taylor; Barbara Rackers and Denice Bullock. Other staff members in attendance were: Captain Charles Bowen, Division of Fire & Emergency Services; Tim Queary, Division of Streets, Roads and Forestry; and Rochelle Boland, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the members that the minutes of the November 10, 2011, meeting had been previously distributed to the Commission, and were ready to be considered at this time.

Action - A motion was made by Mr. Wilson, seconded by Mr. Paulsen and carried 6-0 (Brewer, Copeland, Owens, Penn and Roche-Phillips absent) to approve the minutes of the November 10, 2011, meeting.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

- a. **BOAR 2011-2: KATHY AND SHAILENDRA CHOPRA** (1/12/12)* – an appeal of a Board of Architectural Review denial of an iron fence with brick columns near the front of the property, located at 444 Fayette Park.

Staff Comments – Ms. Rackers said that the staff had received a correspondence from the appellants withdrawing BOAR 2011-2.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for withdrawal. There was no response.

Action – The Chair declared that the Planning Commission would accepted the withdrawal of BOAR 2011-2.

- b. **DP 2011-97: LIGGETT & COMPANY** (1/29/12)* - located at 1211 Manchester Street.
(Council District 2)

(J.E. Black)

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting that DP 2011-97 be postponed to the February 9, 2012, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Mr. Wilson, and carried 6-0 (Brewer, Copeland, Owens, Penn and Roche-Phillips were absent) to postpone DP 2011-97 to the February 9, 2012, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, January 5, 2012, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Will Berkley, Derek Paulsen, Eunice Beatty, Mike Owens and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Jimmy Emmons, Barbara Rackers, Traci Wade, David Jarman, Pamela Brown and Denice Bullock, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

* - Denotes date by which Commission must either approve or disapprove item.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda be reviewed. Mr. Sallee identified the following item appearing on the Consent Agenda, and oriented the Commission to the location of this item on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. **PLAN 2012-1F: GESS PROPERTY, UNIT 8-A (2/19/12)*** - located at 840 Hays Boulevard.
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Exactions to the approval of Division of Planning.

In conclusion, Mr. Sallee said that the item listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request it to be removed for discussion purposes.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this plan. There was no response.

Action - A motion was made by Mr. Paulsen, seconded by Ms. Beatty, and carried 6-0 (Blanton abstained; Brewer, Copeland, Owens, Penn and Roche-Phillips were absent) to approve PLAN 2012-1F: GESS PROPERTY, UNIT 8-A, as listed on the Consent Agenda.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Paulsen, seconded by Mr. Wilson, and carried 6-0 (Brewer, Copeland, Owens, Penn and Roche-Phillips were absent) to approve the release and call of bonds as detailed in the memorandum dated January 12, 2012, from Ron St. Clair, Division of Engineering.

- V. COMMISSION ITEMS** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- A. ELECTION OF OFFICERS** – The Commission's By-laws state that at the first regular meeting in January, the Commission shall elect a Chairperson, Vice-Chairperson, Secretary, and Parliamentarian. The nominating committee will present its slate for consideration by the Planning Commission. Nominations may also be made from the floor.
The current officers are as follows:

Chairperson	-	Mike Cravens
Vice Chairperson	-	Mike Owens
Secretary	-	Lynn Roche-Phillips
Parliamentarian	-	Patrick Brewer

Nominating Committee Report – Ms. Blanton stated that the nominating committee recommended the following slate of Planning Commission Officers for 2012:

Chairperson	-	Derek Paulsen
Vice Chairperson	-	Mike Cravens
Secretary	-	Lynn Roche-Phillips
Parliamentarian	-	William Wilson

Ms. Blanton then said that the nominating committee is also recommended that the Planning Commission consider changes to the Bylaws at a future meeting.

Other Nominations – Mr. Cravens asked if there were any other nominations from the Commission. There were no other nominations from the floor.

* - Denotes date by which Commission must either approve or disapprove item.

Action - A motion was made by Ms. Blanton, seconded by Mr. Paulsen to approve the Planning Commission's Slate of Officers, as presented by the Nominating Committee.

Discussion of Motion – Mr. Berkley asked if the Commission could postpone the election of officers until more members were present. If not, he would prefer to discuss keeping the current slate in place rather than electing new officers at this time.

Mr. Cravens said that there was a motion and a second on the floor. Ms. Beatty asked for guidance from the Law Department on the procedures of the Bylaws, since there was a lack of Commission members present and this is the first opportunity for the Commission to discuss the Nominating Committee's recommendations. Ms. Boland said that the Bylaws state that the election of officers shall be held on the first meeting in January; therefore, postponing the election would be a direct violation of the Bylaws.

The motion tied, 3-3 (Cravens, Wilson and Berkley opposed; Brewer, Copeland, Owens, Penn and Roche-Phillips were absent).

Discussion - Mr. Cravens asked about the Bylaw amendments the Nominating Committee recommended. Ms. Blanton said that they would like to recommend that the Commission discuss making changes to the Bylaws to allow individual votes on officer's rather than considering the slate. She then said that they are also recommending moving the election to July to better align with the regular appointments of the terms for the Commission members.

Mr. Cravens said that to help facilitate the recommendations of the Nominating Committee, if nominated, he would be willing to serve an additional 6 months, at which time he would resign as Chair and a new slate of officers could be considered.

Mr. Wilson asked the staff where the Commission would be in six months concerning the Comprehensive Plan. Mr. King said that the staff is expecting the Commission to be in the middle of the remaining elements of the Comprehensive Plan. He then said that the staff is anticipating that the Council will complete the goals and objectives during March, and the staff is continuing to prepare and work on the remaining plan elements. The Commission will be very busy for the rest of the year with the Comprehensive Plan, and he would not advise adopting any other element until the goals and objectives are adopted by the Council.

Action - A motion was made by Mr. Berkley to reelect the existing Planning Commission's Slate of Officers.

The motion died due to lack of second.

Discussion – Ms. Beatty asked how the Commission handles a tie vote, and if the Bylaws say that the Chair will refrain from voting on an issue to prevent a tie vote. Mr. Cravens said that if there is a tie vote, that motion fails. He then said that the Chair can vote if that vote changes the outcome of the motion. Mr. Wilson said that according to parliamentary procedure, the Chair can vote on any motion on the floor, whether to break or produce a tie vote.

Mr. Wilson explained that the reason he voted the way he did was due to the lack of Commission members present. He would like more members to be present for the election of officers. Mr. Cravens said that the other members were not able to be here due to prior arrangement, and the Bylaws state that the Planning Commission must adopt a slate of officers at the first meeting in January. He then said that he does not know what the ramifications would be if the Commission violates the Bylaws, but someone could possibly challenge that action.

Mr. Wilson said that the Planning Commission is already in conflict with the Bylaws, and explained that according to the Bylaws, there shall be four elected officers. However, according to parliamentary procedure, the parliamentarian is not elected, but appointed. Mr. Cravens said that according to the Planning Commission's Bylaws, the members are to elect the parliamentarian. Mr. Wilson said that if that is the will of the body, then that is correct. He suggested that the original motion be placed on the table again in hopes that the outcome would be different.

Ms. Boland said that the Bylaws dictate what the Commission is to do procedurally; but at this point, the Chair could make a determination based upon the actions of the members who are present. She then said that the Commission has clearly attempted to follow the Bylaws, but it appears to be impossible to finalize this action at this time. It was her opinion that the Commission could attempt the election of officers at the next regularly scheduled meeting.

Action - A motion was made by Ms. Beatty, seconded by Ms. Blanton to approve the Planning Commission's Slate of Officers, as presented by the Nominating Committee.

Discussion of Motion – Ms. Blanton said that the Bylaws state the Commission shall elect a slate of officers at their first January meeting, and it is the duty of the Commission to vote on this issue one more time. She then said that if the Commission does not agree with the current Bylaws, at a later time, the Commission can address that issue.

The motion carried 4-2 (Cravens and Berkley opposed; Brewer, Copeland, Owens, Penn and Roche-Phillips were absent).

- B. **DELEGATION OF SECRETARY'S DUTIES** – The Commission's past procedure for carrying out the Secretary's duties, except for signing minutes, has been to delegate that authority to the Director of the Division of Planning and his staff. The Chair will request the Commission consider taking action on this matter.

Planning Commission Comments – The Chair stated that, in the past, the Planning Commission has delegated the secretary's duties to the Director of the Division of Planning and his staff, for signing of development plans and such. He requested that the Commission consider taking action on this matter.

Action - A motion was made by Mr. Paulsen, seconded by Mr. Wilson and carried 6-0 (Brewer, Copeland, Owens, Penn and Roche-Phillips were absent) to delegate the Secretary's duties to the Director of the Division of Planning and his staff, with the exception of signing the minutes.

- VI. **STAFF ITEMS** – The Chair will announce that any item a Staff member would like to present would be heard at this time.

- A. **UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for January 19, 2012. He said that based upon the Commission's conversations regarding the Bylaws, that item will be placed on the agenda.
- B. **PHOENIX GARAGE** – Mr. King then said that the staff had received notice that demolition will begin on the Phoenix garage, which will close all access from Water Street to the government building. The staff will send the Commission members an email correspondence regarding alternative parking and noted that they would need to use the front entrance of the Government Center until the end of February.

- VII. **AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will **NOT** be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

There were no such items.

VIII. **NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	January 19, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	January 25, 2012
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	January 26, 2012
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	February 2, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	February 2, 2012
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	February 9, 2012

- IX. **ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 2:05 PM.

Mike Cravens, Chair

Lynn Roche-Phillips, Secretary